

CTIA Spectrum Clearinghouse Competitive Cost-Sharing

December 20, 2006

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Presentation Agenda

- Blueprint for competitive cost sharing
- The CTIA Clearinghouse proposal in detail
- Where CTIA differs from PCIA

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Blueprint for Competition

- What is the service being sold?
 - The clearinghouse service being sold is—principally—the identification, in a timely and efficient manner, of cost-sharing opportunities for a specific relocated link
- Who is purchasing the service?
 - Clearinghouses service entities with potential cost-sharing opportunities
 - Link relocators
 - Entities (e.g., new entrants) participating in cost-sharing because of prior triggers
 - ***The entity that spends money on clearinghouse services is the one being PAID an obligation***
- How can competition be created?
 - A company should be able to designate, for any rights it may have to future cost-sharing, the clearinghouse that it desires to manage its obligations.
 - A company should be permitted to change the clearinghouse that administers its obligations for a particular link
 - A company's choice to deal with a particular clearinghouse should not be eviscerated by third parties

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CTIA Proposal

Date T1:

Link relocated by **Company A**
Company A benefits with () site
Company A registers link with **CH1**

Date T1+20 mo.

Link triggered by **Company B** with site ()
CH1 issues notice to **Company A** and **Company B**
Company B pays reimbursement obligation to **Company A**
Company A notifies **CH1** that obligation is satisfied in full
Company A pays transaction fee to **CH1**
Company B elects **CH2**
CH1 transmits link data to **CH2**

Date T1+30 mo.

Link triggered by **Company C** with site ()
CH1 issues notice to **Company A** and **Company C**
CH2 issues notice to **Company B** and **Company C**
Company C pays reimbursement obligation to **Company A**
Company A notifies **CH1** that obligation is satisfied in full
Company A has already paid a transaction fee to **CH1**
Company C pays reimbursement obligation to **Company B**
Company B notifies **CH2** that **C's** obligation satisfied in full
Company B pays transaction fee to **CH2**
Company C must elect **CH1** or **CH2**

EACH CLEARINGHOUSE ISSUES NOTICES TO ITS OWN CLIENTS AND COLLECTS TRANSACTION FEES FROM ITS OWN CLIENTS ON A PER-LINK BASIS

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Where CTIA and PCIA Differ

- Lock step coordination of data and policy activities
- Dispute resolution coordination
- Who issues notices to triggers
- When and how clearinghouses are selected

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Data Exchange Issues

- PCN Data

- All AWS and MSS/ATC participants should have an obligation to file PCN data at both clearinghouses
- Minimally intrusive for carriers—requires additional cc: only
- PCN files will be “trued up” between the clearinghouses on an agreed-upon frequency

- Link Data

- Exchange only needed when a “holder of future rights” elects a clearinghouse
- Link data transfer can be initiated by participant, but should require an explicit request
- Requiring initiation by participant:
 - Creates audit trail that one or the other clearinghouse has, in fact, been selected
 - Ensures prior obligation has been paid; condition to right to future payments
- Clearinghouses should be under an obligation to use commercially reasonable efforts to complete a transfer in a mutually agreeable period of time

- CTIA’s proposal avoids sharing competitively sensitive data and costs/coordination associated with developing secure data exchange

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Policy Coordination

- NDAs/Privacy Policies
 - Only information shared is a result of an explicit request by an entity legally entitled to the data
- Dispute Resolution
 - Clearinghouse dispute resolution does not involve applying rules or policies
 - Clearinghouse is a neutral third party
 - Mediation involves facilitating voluntary resolution between the parties not adjudicating
 - Practical reality is that dispute resolution will not occur simultaneously
 - Assume A uses CH1, B uses CH2, and C triggers
 - If C disputes with A & B, core dispute is likely C v. A
 - C and B are likely to desire placing dispute on hold until C v. A is resolved
 - If issues are escalated to ADR, clearinghouse policies not implicated
- CTIA proposal avoids requiring FCC to resolve any and all minor discrepancies in how clearinghouses address matters, whether relevant or not, through Declaratory Rulings

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Who Issues the Notices

- Under CTIA's proposal, a clearinghouse identifies cost-sharing obligations for clients that have selected that clearinghouse
 - Gives effect to market choice by entity paying for clearinghouse services
- Under PCIA's proposal, a clearinghouse may be identifying obligations for clients that have selected the other clearinghouse or not identifying obligations for its own clients
 - A company could be paying one clearinghouse for services provided by another; likewise, a clearinghouse could receive payments for services it is not providing
 - A company could be receiving services from a clearinghouse it has not paid; likewise, a clearinghouse could be providing services for no compensation
 - Competitively, no correlation between the payment for services and the choice to elect services from one provider or another
 - No competitive incentive to provide quality services, since payment is not correlated to which clearinghouse performs the work

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When and How to Select

- Under CTIA's proposal, participants elect a clearinghouse at the time the potential for future cost-sharing arises—when they have paid a trigger
 - Logic is that reimbursement is related to the link, as are triggers
 - Does not require selection of a clearinghouse until some right to potential recovery exists
- Under PCIA's proposal, participants elect a clearinghouse at the time they file PCN data
 - PCN data filings are not logically related to specific link obligations
 - Gives rise to the possibility of customers unintentionally incurring fees to both clearinghouses
 - Requires continually scanning of PCN data by both clearinghouses to determine, for each link, which clearinghouse (or both) must notify filers
- Fundamentally linked to the issue of when an obligation arises

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Customer Choice?

Company B filed PCNs for () with **CH1**
On the same day, **Company B** filed PCNs for () with **CH2**
Company B has no idea whether it will trigger an obligation

CH1 identifies trigger from () sites
CH2 identified trigger from () sites
Company B liable for transaction fee to **CH1**
Company B liable for transaction fee to **CH2**

- **Company B** has no way of knowing whether its collection of sites will trigger a particular link, but **Company B** may be unknowingly committing to pay two realtors commissions on the same house
- How does **Company B** know what services it is “buying” when it is forced to “buy” by filing PCN data?
- Underscores that PCN data filings are **not** logically related to obligations; purchase of services is link-based, not site-based

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CH1 issues notice to **Company A** and **Company B**
Company B does not pay reimbursement obligation

Date T1+30 mo.

Link triggered by **Company C** with site ()
CH1 issues notice to **Company A** and **Company C**
Company B gets **NO** notice

Company B does not get notices because **Company B** does not have a “right” to receive any cost-sharing—it has not paid anything

If **Company B** pays **Company A**, it would subsequently be notified of **Company C**'s obligation to **Company B**

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PCIA Proposal

Date T1:

Link relocated by **Company A**
Company A benefits with () site
Company A registers link with **CH**

Date T1+20 mo.

Link triggered by **Company B** with site ()
CH issues notice to **Company A** and **Company B**
Company B does not pay reimbursement obligation

Date T1+30 mo.

Link triggered by **Company C** with site ()
CH issues notice to **Company A** and **Company C**
CH issues notice to **Company B** and **Company C**

Company C is obligated to pay **Company B** within 30 days under the rules, even if **Company B** has not paid anything

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FCC Rule Clarifications

- PCN data must be filed at both clearinghouses
- Participants must elect a clearinghouse for administration at the time a right to possible future compensation arises
 - *i.e.*, at the time a prior reimbursement obligation by that entity has been satisfied in full
- Participants may not request link data transfers unless prior obligations are met
 - *i.e.*, no possible future compensation right exists unless the prior obligation is paid
- No requirement exists for a clearinghouse to identify cost-sharing obligations for a participant in the absence of an election by that participant for that obligation
- Clearinghouses shall use commercially reasonable efforts to complete link data transfers in a timely manner

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